

Remarks

Applicant respectfully requests reconsideration and allowance of the present application in view of the claim amendments and the remarks below.

In the present Amendment, to further advance prosecution and without acquiescence to the apparatus claim rejections, Applicant has cancelled the apparatus claims, amended the pending method claims, and added new method claims.

In the Office Action under "Claim Interpretation," the language "alphabetical play phrase" was deemed to include any coherent text or any text or a word or includes an alphanumeric sequence. The language "word based play phrase" was deemed to limit the phrase to including words. Applicants do not acquiesce in the Examiner's interpretation of the claim language "alphabetical play phrase." However, to move prosecution forward, Applicants have amended/restricted the present method claims to recite "word based play phrase that comprises a plurality of words," which the Office Action has indicated is limited to require words.

It is respectfully submitted that, in view of pending method claims only, the relevant rejection to be addressed herein pertains to the method claims 42-45, 46, and 48. Claims 42-45 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Koza '050 in view of either Baerlocher '573 or Walker '864.

Independent claim 42 is directed to a method for playing a word based lottery game that includes receiving a word based play phrase that comprises a plurality of words and a wager from the user. This play phrase is designated at the sole discretion of the user, for example from a list of suggested phrases, or compiled originally by the user. A prize value is assigned to each of the plurality of words that is based on the

complexity of the words. For example, more complex words have a higher prize value. A string of letters is then randomly generated by the gaming authority. It is then determined whether the letters in the random string form any of the words in the play phrase. A payout value is determined as a function of the total number and complexity of the words in the play phrase that can be formed from the random string of letters. New independent claim 57 is similar, and also calls for printing the player selected word based play phrase, the prize value, and the random string of letters on a lottery ticket, with the random string of letters being covered with a removable coating. The ticket is provided to the player, wherein the player removes the coating to determine if the random letters form one or more of the plurality of words.

Additionally, both independent claims 42 and 57 require that the prize value of each of the plurality of words is based upon the complexity of the word. For example, as discussed in paragraphs [0082] and [0087]-[0088] of the current specification, the prize value can be determined based on the probability of a winning a word. The more letters that are in a word result in a lower probability that the string of letters will match the word in the phrase. Additionally, there are letters that appear more often in words such as the letter “e”, and letters that appear less often, such as the letter “z”. Therefore, if a word within the play phrase contains letters that are more common, there is a greater probability that the random string of letters will be able to make up a part or all of the word. Thus, the lower the probability that a word will be able to be matched with the random string of letters, the higher the prize value.

The unique configuration of steps of independent claims 42 and 57 is not anticipated by Koza '050 or rendered obvious by Koza '050 when combined with Baerlocher '573, Walker '864, or any combination of the references of record.

Koza '050 is directed to a broadcast lottery in which a player acquires a ticket containing the game information for comparison to information broadcasted from a transmitter. Applicant submits that the word game taught in Koza '050 is fundamentally different than the currently claimed word based lottery game. On col. 3, lines 17-20 of Koza '050 it states:

Another game is outlined in which a player selects a word from a set of preselected words and wins if the player's selected word matches the winning word drawn from the set.

Accordingly, Koza '050 teaches of a conventional lottery game wherein the player selects an "object" or "symbol" (i.e., a number, a word, a picture, and so forth...) from a designated group and wins if the lottery randomly selects the same object. Koza expressly refers to "lotto" games wherein the player selects numbers from a designated group of numbers, and wins if the lottery system randomly selects the same numbers. The word based game suggested by Koza '050 in the above cited passage merely substitutes words (or any other object or symbol) for numbers. This old and well known lottery concept is fundamentally unrelated to the presently claimed game features. There is no teaching, suggestion, motivation, or other reason in Baerlocher '573, Walker '864, or any combination of the references of record, to reconfigure the game of Koza '050 in accordance with the present claims.

The inventive features of Koza '050 are not the game concepts (which are old), but are directed to an electronic lottery ticket that can receive a randomly generated set

of numbers or a “winning word” to the ticket holder via an RF frequency. The discussion of using words and letters in the games described by Koza '050 is merely a simple substitution of indicia in a common lottery game. At most, one skilled in the art may be motivated to substitute another well known lottery game theme for the game of Koza '050, but any such substitution is still not in accordance with the present claims wherein the player directly determines the payout and likelihood of winning by their selection of the initial play phrase of words, with the hope that randomly generated letters can be used to form the words. As stated above, Koza '050 teaches to match the drawn “winning word” from a set of possible words. Therefore, in no way does Koza '050 disclose or suggest of a game wherein the player dictates the odds and complexity of the game via the initial designation of a play phrase comprising a plurality of words, wherein a subsequent randomly generated string of letters are used to form one or more of the words to “win” the game.

Still further, Koza '050 fails to disclose or suggest determining a payout value as a function of the number of matches between the randomly drawn letters and the letters within at least one of the plurality of words. As stated above, Koza '050 teaches to draw a “winning word” from a set of words to determine a payout value. Koza '050 only teaches a payout when there is simply a match of one object with another object, whether that object is a number, a word, or a symbol. In contrast, the present game requires a payout value that is determined as a function of the complexity of the matched words.

Applicants respectfully submit that Baerlocher '573 or Walker '864 fails to cure the deficiencies of Koza '050. Baerlocher '573 and Walker '864 teach/demonstrate

Wheel of Fortune as a game of chance, wherein a hidden phrase is presented by the gaming authority to a player, and the player guesses letters in an attempt to solve the hidden phrase. The game of Wheel of Fortune is fundamentally different from the presently claimed word based lottery game, and does not depend on the initial play phrase being determined solely at the discretion of the user without any knowledge of the subsequent randomly generated string of letters. The Wheel of Fortune game does not provide the player with the ability to select the complexity of the words, with the payout value of a "winning" game being a function of the number and complexity of matched words. Specifically, Baerlocher '573 teaches that the phrase is hidden to the player (col. 1, lines 24-25). Additionally, Walker '864 specifically states that "the objective of the electronic word puzzle game is to solve a hidden phrase or quotation" (col. 4, lines 18-19). Consequently, both Baerlocher '573 and Walker '864 directly teach away from the limitations recited in independent claims 42 and 57.

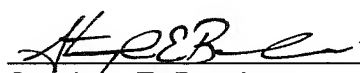
At most, one skilled in the art may be motivated to substitute a Wheel of Fortune-like game for the word game of Kozo '050, but the resulting game is still fundamentally unrelated to the presently claimed game.

For at least the reasons discussed above, Applicant respectfully submits that the pending method claims patentably distinguish over any combination of the art of record, and that the application is in complete condition for allowance. Favorable action thereon is respectfully requested. Should any issues remain after consideration of this amendment, then Examiner Sager is invited and encouraged to telephone the undersigned at his convenience.

If any fee not accounted for above is required for entry of this Amendment or papers filed herewith, authorization is hereby granted to charge such fee to Deposit Account No. 04-1403. If any petition is required for entry, such petition is hereby made and any associated fees may also be charged to our deposit account.

Respectfully submitted,

DORITY & MANNING, P.A.

By: 
Stephen E. Bondura
Registration No.: 35,070

P.O. Box 1449
Greenville, SC 29602-1449
(864) 271-1592
fax (864) 233-7342